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DEPARTMENT OF ENERGY  
FEDERAL ENERGY REGULATORY COMMISSION

Alabama Power Company

Project No. 2165-049

NOTICE REJECTING REQUEST FOR REHEARING

On March 31, 2010, the Commission issued a new license to Alabama Power Company (Alabama Power) for the continued operation and maintenance of the Warrior River Hydroelectric Project No. 2165, located on the Black Warrior River and on the Sipsey Fork of the Black Warrior River, in Cullman, Walker, Winston, and Tuscaloosa Counties, Alabama.<sup>1</sup> The Smith Lake Improvement and Stakeholders Association (Lake Association) filed a timely request for rehearing of the order, and on November 15, 2012, the Commission issued an order denying rehearing and providing clarification of the March 31 Order.<sup>2</sup> On December 17, 2012, the Lake Association filed a timely request for rehearing of the November 15 Order.

Rehearing of an order on rehearing lies when the later order modifies the result reached in the original order in a manner that gives rise to a wholly new objection.<sup>3</sup> The November 15 Order does not modify the result of the March 31 Order. Further, the arguments Lake Association makes in its rehearing request were considered and denied in the November 15 Order. Therefore, the request for rehearing by the Lake Association is rejected.

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<sup>1</sup> *Alabama Power Co.*, 130 FERC ¶ 62,271 (2010) (March 31 Order).

<sup>2</sup> *Alabama Power Co.*, 141 FERC ¶ 61,127 (2012) (November 15 Order).

<sup>3</sup> See, e.g., *Union Electric Company d/b/a AmerenUE*, 114 FERC ¶ 61,230, at 61,745-46 (2006); *Duke Power*, 114 FERC ¶ 61,148, at P 1 (2006); *Gustavus Electric Co.*, 111 FERC ¶ 61,424, at P 3 (2005); *Symbiotic, L.L.C.*, 99 FERC ¶ 61,064, at 61,300 (2002); and *PacifiCorp*, 99 FERC ¶ 61,015, at 61,052 (2002). See also *Southern Natural Gas Co. v. FERC*, 877 F.2d 1066, 1073 (D.C. Cir. 1999) (citing *Tennessee Gas Pipeline v. FERC*, 871 F.2d 1109-10 (D.C. Cir. 1988)).

This notice constitutes final agency action. Requests for rehearing by the Commission of this rejection must be filed within 30 days of the date of issuance of this notice pursuant to section 313(a) of the Federal Power Act, 16 U.S.C. 825f (2006), and section 385.713 of the Commission's regulations, 18 CFR § 385.713 (2012).

Dated: January 16, 2013

Kimberly D. Bose,  
Secretary.

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